

RESOLUTION 05-2021

A RESOLUTION AUTHORIZING AND DIRECTING THE VILLAGE ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH FOXFIRE GOLF CLUB, INC. TO CONNECT SEWER AND WATER SERVICE TO FOXFIRE GOLF CLUB AND, IN LIEU OF COLLECTION OF TAP FEES, ACCEPT UTILITY LINE CONSTRUCTION AND MAINTENANCE EASEMENTS FOR THE BENEFIT OF THE VILLAGE OF COMMERCIAL POINT, AND DECLARING AN EMERGENCY.

WHEREAS, Foxfire Golf Club, Inc. desires to connect to the Village of Commercial Point's water and sanitary sewer systems; and

WHEREAS, the Village of Commercial Point has established tap fees for connecting to the Village's water and sanitary sewer systems; and

WHEREAS, the Village of Commercial Point will require access over property owned by Foxfire Golf Club, Inc. for the installation of water and sanitary sewer lines; and

WHEREAS, Foxfire Golf Club, Inc. has verbally agreed to provide the Village of Commercial Point with easements for the construction and maintenance of the water and sanitary sewer lines that will be installed by the Village in exchange for the waiver of water and sewer tap fees; and

WHEREAS, the Village of Commercial Point is authorized to enter into contracts for the acquisition of property rights pursuant to Ohio Revised Code Section 715.01 *et seq.*; and

WHEREAS, the Village Council wishes to enter into a written agreement between Foxfire Golf Club, Inc. and the Village of Commercial Point to waive the water and sanitary sewer tap fees applicable to Foxfire Golf Club, Inc. in exchange for the grant and conveyance of utility construction and maintenance easements across, over, through, and upon property owned by Foxfire Golf Club, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, OHIO THAT:

Section 1. The Village Administrator is hereby authorized and directed to enter into an agreement with Foxfire Golf Club, Inc. to connect buildings owned by Foxfire Golf Club, Inc. to the Village water and sanitary sewer system and, in lieu of collection of water and sewer tap fees, accept a utility lines construction and maintenance easement across, over, through, and upon the property of Foxfire Golf Club, Inc. for the benefit of the Village that is in substantially the same form and on substantially the same terms as the Letter of Agreement and Easement Agreement attached hereto as Exhibit A, which are incorporated herein by reference.

Section 2. The Village Administrator is hereby authorized to complete all contracts and legal documents necessary, and take all further actions that are not inconsistent with this Resolution, to effect the Agreements described in Section 1.

Section 3. Except as provided for in this Resolution, nothing in this Resolution shall be construed to otherwise alter any prior legislation with respect to Village water and sewer tap fees.

Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5. Due to the necessity of providing water and sewer service to Foxfire Golf Club, Inc. as soon as possible, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety of the Village of Commercial Point and shall, therefore, go into immediate effect upon passage.

RESOLUTION 05-2021

Vote on Suspension of the Readings:

Motion by: Jason Thompson

2nd: Laura Wolfe

Roll Call:

Yes Jason Thompson

Yes Tracy Joiner

Yes Laura Wolfe

Yes Aaron Grassel

Yes Ryan Mitchem

Vote on Passage of the Resolution:

Motion by: Laura Wolfe

2nd: Jason Thompson

Roll Call:

Yes Jason Thompson

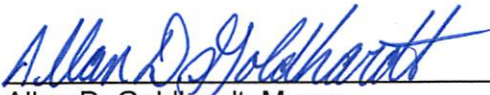
Yes Tracy Joiner

Yes Laura Wolfe

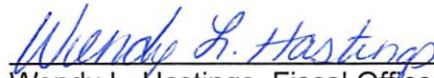
Yes Aaron Grassel

Yes Ryan Mitchem

Adopted this 22nd day of February, 2021.



Allan D. Goldhardt, Mayor



Wendy L. Hastings, Fiscal Officer

Approved as to Form:



Joshua Cartee, Village Solicitor

Exhibit A



Village of Commercial Point

P.O. Box 56
Commercial Point, Ohio 43116
(614) 877-9248

February __, 2021

Foxfire Golf Club, Inc.
Attention: Tom Kidder, General Manager
10799 State Route 104
Lockbourne, Ohio 43137

Re: Letter of Agreement for Water and Sewer Tap Fees Waiver in Exchange for Easement Agreement

Dear Mr. Kidder:

Please find enclosed an Easement Agreement that the Village Council of the Village of Commercial Point has authorized the Mayor and Village Administrator to enter into with Foxfire Golf Club, Inc ("Foxfire"). In consideration of Foxfire entering into the Easement Agreement with the Village, the Village agrees to waive the usual sewer and water tap fees it would charge Foxfire for connecting to the Village's sanitary sewer and water systems. The waiver of these fees is valued at \$18,200.

If you agree to these terms, please sign below and return (1) an original, signed copy of this letter and (2) an original, signed, and notarized copy of the enclosed Easement Agreement to the Village of Commercial Point at 10 West Scioto Street, Commercial Point, Ohio 43116.

Sincerely,

D. Ross Crego
Village Administrator

ACKNOWLEDGED AND AGREED:

FOXFIRE GOLF CLUB, INC.

Thomas Kidder, General Manager

Date

APPROVED AS TO FORM:

Joshua Cartee, Village Solicitor

VILLAGE OF COMMERCIAL POINT

D. Ross Crego, Village Administrator

Date

RESOLUTION 05-2021

Exhibit A (continued)

EASEMENT AGREEMENT

This Easement Agreement ("Easement Agreement") is made and entered into as of the ____ day of February, 2021 (the "Effective Date") by and between **FOXIRE GOLF CLUB, INC.**, an Ohio corporation ("Grantor"), and the **VILLAGE OF COMMERCIAL POINT**, an Ohio municipal corporation ("Grantee") (collectively, the "Parties").

RECITALS:

A. Grantor is the owner of certain real estate located in the Village of Commercial Point, Pickaway County, Ohio, more specifically depicted on **Exhibit A** attached hereto and incorporated herein by reference (the "Grantor Property").

B. Grantee operates the sanitary sewer and water systems for the Village of Commercial Point and collects tap fees whenever a resident or business connects to the sewer and water system in order to provide funds for the continued operation of the sanitary sewer and water systems.

C. Grantor and Grantee wish to enter into this Easement Agreement whereby Grantor grants and conveys certain easements for sewer line and water line construction and maintenance to the Grantee.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants, promises and agreements herein contained, Grantor and Grantee hereby agree as follows:

1. **Grant of Construction Easement.** As of the Effective Date, Grantor hereby grants, bargains, sells, conveys, and releases to Grantee and Grantee's successors and assigns, for the benefit of Grantee and Grantee's sewer and water system, a non-exclusive temporary construction easement over, across, and upon all portions of the Grantor Property reasonably necessary ("Construction Easement") to complete the construction and installation (and/or reconstruction or relocation as provided in Section 4 hereof) of the sanitary sewer and water lines and all related systems, including, without limitation, pipes, lines, and related improvements and facilities (collectively, the "Utility Lines Systems") together with the right of ingress and egress of vehicles and persons transporting construction materials and equipment and for the temporary storage of equipment and materials being utilized in connection with such construction.

2. **Grantee Covenants.** Grantee covenants, represents, and agrees that all work necessary to complete the construction of the Utility Lines System will be performed and completed at Grantee's sole cost and expense or at the cost and expense of a party other than Grantor in a good and workmanlike manner, free of mechanic's liens and in compliance with all applicable laws, ordinances, rules, and regulations. Upon completion of construction, Grantee shall restore the Grantor Property to substantially the condition (other than the Utility Lines Systems) it was in prior to the construction performed by or at the direction of Grantee, provided, however, that in no event shall Grantee be required to replant any trees removed in connection with Grantee's construction, installation, maintenance and repair rights and obligations under this Easement Agreement.

3. **Grant of Utility Lines Maintenance Easement.** As of the Effective Date, Grantor hereby grants, bargains, sells, conveys, and releases to Grantee, for the benefit of Grantee and Grantee's successors and assigns: (1) a permanent, non-exclusive easement upon the Grantor Property located in the area shown on **Exhibit A** as the "Utility Line Area" for purposes of locating thereon the Utility Lines Systems, (2) a permanent, non-exclusive easement for purposes of channeling, transporting, and discharging surface and storm water, effluent, and other water to, through, and from the Utility Line Systems, and (3) a permanent, non-exclusive ingress and egress easement upon and across the Grantor Property in order to provide access to the Utility Lines System for purposes of performing all necessary monitoring, maintenance, repairs, and replacements to said Utility Line Systems (collective, the "Utility Lines Easement").

4. **Right to Relocate Utility Line Systems.** Grantee shall have the right at any time, after reasonable notice to Grantor and to reconfigure, reconstruct, replace, and/or relocate the Utility Line Systems within the Utility Lines Area.

5. **Maintenance.** Grantee covenants and agrees with Grantor to maintain the Utility Lines System in good, clean, safe, and working condition in accordance with sound construction and engineering standards and practices.

6. **Reservation of Rights.** Except for the Utility Lines Area, Grantor reserves the right to use and enjoy the Grantor Property for any and all purposes, provided such use and enjoyment shall not unreasonably interfere with the easement rights and privileges granted to Grantee hereunder.

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Exhibit A (continued)

7. **No Additional Construction.** Grantor shall not construct nor shall Grantor permit any structures of any kind to be constructed within the Utility Line Area, to the extent the same will interfere with the rights of Grantee hereunder. Grantee agrees not to alter the Utility Line Systems without reasonable notice to Grantor.

8. **Term of Easements.** The Construction Easement shall be effective as of the date hereof and continue until completion of construction of the Utility Lines System and during any period of reconstruction or relocation of the Utility Lines System. The Utility Lines Easement shall commence as of the date hereof and continue for so long as such easement is necessary for the operating, monitoring, repairing, and replacing of the Utility Lines System on the Grantor Property.

9. **Notices.** All notices herein authorized or required to be given to Grantor shall be sent certified mail, registered mail, or overnight express, postage prepaid to Grantor at:

Foxfire Golf Club, Inc.
Attn: General Manager
10799 State Route 104
Lockbourne, Ohio 43137

All notices herein authorized or required to be given to Grantee shall be sent by certified mail, registered mail, or overnight express, postage prepaid, to the Grantee at:

Village of Commercial Point
Attn: Village Administrator
10 West Scioto Street
Commercial Point, Ohio 43116

With a copy to:

Joshua M. Cartee
Dinsmore & Shohl LLP
191 W. Nationwide Blvd., Suite 300
Columbus, Ohio 43215

Either Party, with consent of that Party, may accept any notice required under this Easement Agreement by other written means, such as electronic mail.

10. **Entire Agreement.** This Easement Agreement together with the Exhibits attached hereto contains the complete understanding and agreement of the Parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

11. **Successors and Assigns; Covenants Running with the Land.** The easements, rights of way, restrictions and covenants made in this Easement Agreement shall be deemed to be covenants running with the land and shall be binding upon and benefit the owner or owners of the Grantor Property, and any persons or entities who may from time to time own any portion thereof, and the successors and assigns of Grantee. Consequently, all references to Grantor shall be construed to refer to the then owner(s) of the Grantor Property.

12. **No Dedication.** The Parties intend that this Easement Agreement be strictly limited to the uses and purposes expressed and nothing contained herein shall, or be deemed to, constitute a gift or dedication of all or any portion of the Grantor Property to the general public or for any public purpose whatsoever. However, this Paragraph is subject to modification by future, written agreement of the Parties.

13. **Village Council Approval.** The Parties agree that this Easement Agreement shall not take effect until the Council of the Village of Commercial Point provides its approval, or approves of the Parties entering into an Agreement in substantially the same form and on substantially the same terms as this Easement Agreement.

14. **Authority to Enter Agreement.** The Parties whose signatures appear on this Easement Agreement hereby represent that they have the authority to enter into this Easement Agreement on behalf of the entities for whom they are signing.

15. **Governing Law.** This Easement Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio.

RESOLUTION 05-2021

Exhibit A (continued)

16. **Severability.** If any term or provision of this Easement Agreement or the application thereof to any person or circumstance should to any extent be invalid or unenforceable, the remainder of the Easement Agreement and the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable will not be affected thereby, and each term and provision of this Easement Agreement will be valid and enforceable to the fullest extent permitted by law.

17. **Indemnity.** Grantor agrees to indemnify, defend and hold Grantee, and its respective agents, employees, officers, successors and assigns, harmless from any and all loss, cost, expense, damages or injuries to persons or property (including reasonable attorneys' fees), and any other liabilities of any kind or nature arising out of or in any way related to the Grantor Property, except only to the extent caused by the gross negligence or willful misconduct of Grantee.

18. **Remedies: Enforcement.** In addition to the remedies expressly set forth in this Easement Agreement, each of Grantor and Grantee shall be entitled to all remedies available in law or in equity and any court enforcing the rights and duties granted in this Easement Agreement shall have the power (insofar as that power may be granted by contract) to issue restraining orders or injunctions necessary to enforce the provisions of this Easement Agreement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any covenant herein, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief. In the event Grantor or Grantee should bring suit to enforce its rights hereunder, the prevailing party will be entitled to recover its costs, including reasonable attorneys' fees (in all trial, appellate, bankruptcy and post-judgment proceedings) from the non-prevailing party.

19. **Exhibits.** The following exhibits are hereby incorporated into this Easement Agreement by this reference:

<u>Exhibit A</u>	Legal Description and Map of Grantor Property and General Area of Utility Lines Easement
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20. **Counterparts.** This Easement Agreement may be executed by the Parties hereto in multiple counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument.

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RESOLUTION 05-2021

Exhibit A (continued)

IN WITNESS WHEREOF, Grantor and Grantee have executed and delivered this Easement Agreement as of the day and year first above written:

GRANTOR:

FOXFIRE GOLF CLUB, INC.,
an Ohio corporation

By: _____

Title: _____

STATE OF OHIO)
) SS
COUNTY OF PICKAWAY)

Before me, a Notary Public, in and for said County and State, personally appeared the above-named **FOXFIRE GOLF CLUB, INC.**, an Ohio corporation, by _____, its _____, who acknowledged that he did sign the foregoing instrument on behalf of said corporation, and that the same is his free act and deed and the free act and deed of said corporation.

NOTARY PUBLIC

Commission Expiration Date

GRANTEE:

VILLAGE OF COMMERCIAL POINT,
an Ohio municipal corporation

By: _____

Title: _____

STATE OF OHIO)
) SS
COUNTY OF PICKAWAY)

Before me, a Notary Public, in and for said County and State, personally appeared the above-named **VILLAGE OF COMMERCIAL POINT**, an Ohio municipal corporation, by _____, its _____, who acknowledged that he did sign the foregoing instrument on behalf of said corporation, and that the same is his free act and deed and the free act and deed of said corporation.

NOTARY PUBLIC

Commission Expiration Date

APPROVED AS TO FORM:

Joshua Cartee
Solicitor, Village of Commercial Point

EXHIBIT A to Easement Agreement
DESCRIPTION OF A UTILITY EASEMENT
EASEMENT "A"
FOX FIRE GOLF CLUB
VILLAGE OF COMMERCIAL POINT, OHIO

Situated in the State of Ohio, County of Pickaway, Village of Commercial Point, being a strip of land located within that 113.972-acre tract as described in a deed to Foxfire Golf Club, Inc., of record in Official Record 776, Page 685, Recorder's Office, Pickaway County, Ohio, and being more particularly described as follows:

Beginning at a northwesterly corner of said 113.972-acre tract, the northeasterly corner of that original 6.76-acre tract as described in a deed to Betty L. Drake, of record in Official Record 701, Page 2468, and in the northerly corporation line of the Village of Commercial Point;

Thence North 84°14'15" East, along a northerly line of said 113.972-acre tract, a distance of 706.65 feet to a northeasterly corner of same;

Thence South 56°45'45" East, along an easterly line of said 113.972-acre tract, a distance of 20.00 feet to a point;

Thence South 84°14'15" West, crossing said 113.972-acre tract, 20 feet south of and parallel to the northerly line, a distance of 70x.xx feet to a point in a westerly line of same, the easterly line of the aforementioned 6.76-acre tract;

Thence North 13°35'45" West, along said westerly line, a distance of 20.xx feet to the place of beginning.

EASEMENT "B"

Together with an additional strip of land 40 feet in width parallel to and coincident with the southerly line of the easement described herein above.

Bearings herein are based on the Ohio State Plane Coordinate System, South Zone NAD 83 (2011).

This description was prepared by IBI Group Survey, Columbus, Ohio and is based on the records of Pickaway County.

EXHIBIT A to Easement Agreement

**DESCRIPTION OF A CONSTRUCTION AND MAINTENANCE ACCESS EASEMENT
EASEMENT "C"
FOXFIRE GOLF CLUB
VILLAGE OF COMMERCIAL POINT, OHIO**

Situated in the State of Ohio, County of Pickaway, Village of Commercial Point, being an area of land located within that 4.164-acre tract as described in a deed to The Foxfire Golf Club Inc., of record in Official Record 78, Page 508, Recorder's Office, Pickaway County, Ohio, and being more particularly described as follows:

Beginning **FOR REFERENCE** at the southwesterly corner of said 4.164-acre tract; thence North 25°55'09" West, along the westerly line of said 4.164-acre tract, a distance of 350.41 feet to the **TRUE PLACE OF BEGINNING**;

Thence North 25°55'09" West, passing the northwesterly corner of said 4.164-acre tract and then crossing same, a distance of 52.31 feet to a point in the northerly line, the northerly corporation line of the Village of Commercial Point;

Thence along said northerly line the following courses:

1. South 88°06'21" East, a distance of 35.07 feet to an angle point;
2. South 84°17'39" East, a distance of 193.38 feet to an angle point;
3. South 86°58'51" East, a distance of 173.16 feet to an angle point;

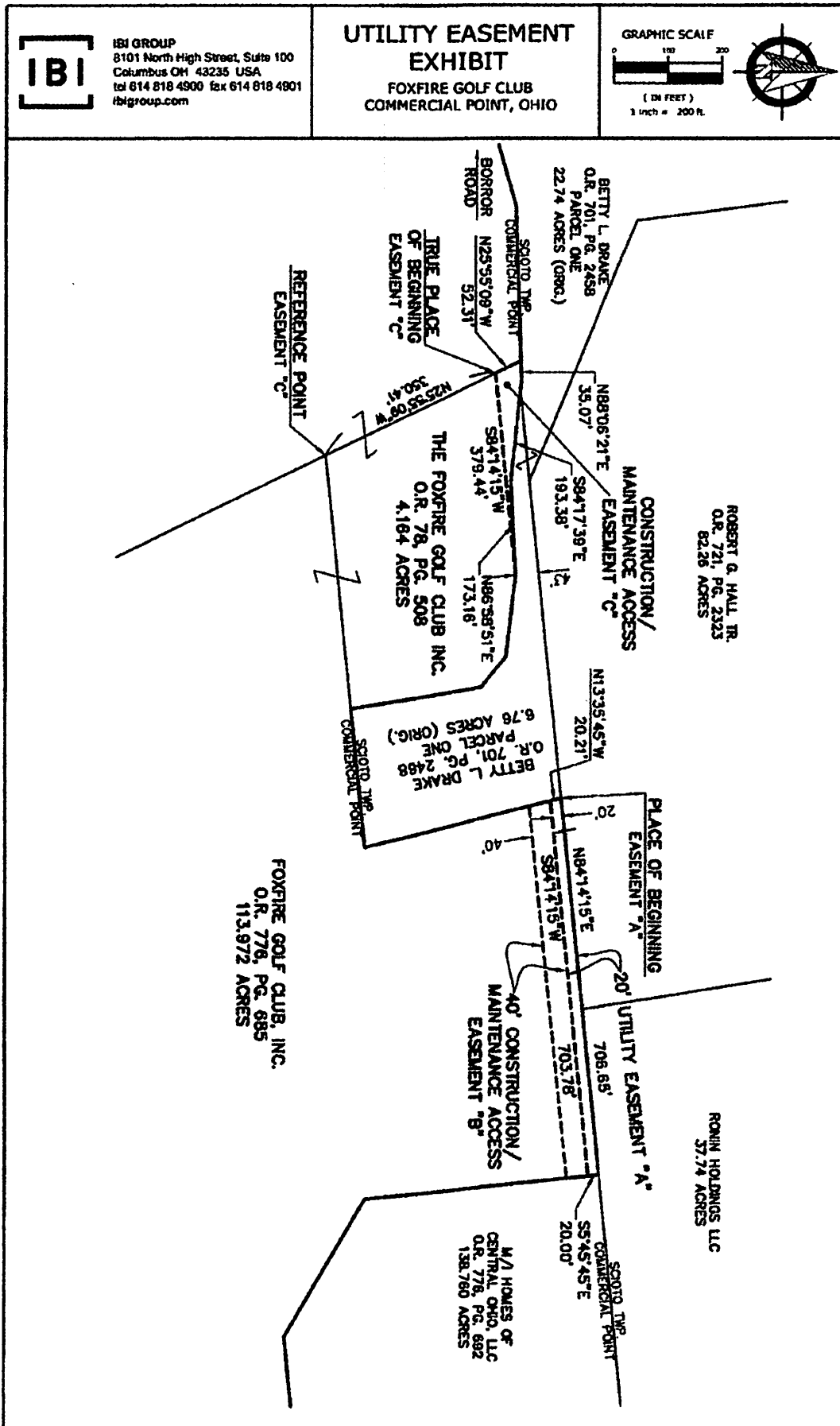
Thence South 84°14'15" West, crossing said 4.164-acre tract, a distance of 379.44 feet to the **TRUE PLACE OF BEGINNING**.

Bearings herein are based on the Ohio State Plane Coordinate System, South Zone NAD 83 (2011).

This description was prepared by IBI Group Survey, Columbus, Ohio and is based on the records of Pickaway County.

Exhibit A (continued)

EXHIBIT A to Easement Agreement





Village of Commercial Point

P.O. Box 56
Commercial Point, Ohio 43116
(614) 877-9248

February 22nd, 2021

Foxfire Golf Club, Inc.
Attention: Tom Kidder, General Manager
10799 State Route 104
Lockbourne, Ohio 43137

Re: Letter of Agreement for Water and Sewer Tap Fees Waiver in Exchange for Easement Agreement

Dear Mr. Kidder:

Please find enclosed an Easement Agreement that the Village Council of the Village of Commercial Point has authorized the Mayor and Village Administrator to enter into with Foxfire Golf Club, Inc ("Foxfire"). In consideration of Foxfire entering into the Easement Agreement with the Village, the Village agrees to waive the usual sewer and water tap fees it would charge Foxfire for connecting to the Village's sanitary sewer and water systems. The waiver of these fees is valued at \$18,200.

If you agree to these terms, please sign below and return (1) an original, signed copy of this letter and (2) an original, signed, and notarized copy of the enclosed Easement Agreement to the Village of Commercial Point at 10 West Scioto Street, Commercial Point, Ohio 43116.

Sincerely,

D. Ross Crego
Village Administrator

ACKNOWLEDGED AND AGREED:

FOXFIRE GOLF CLUB, INC.

Thomas Kidder, General Manager

Date

APPROVED AS TO FORM:

Joshua Cartee, Village Solicitor

VILLAGE OF COMMERCIAL POINT

D. Ross Crego, Village Administrator

Date

EASEMENT AGREEMENT

This Easement Agreement ("Easement Agreement") is made and entered into as of the 22nd day of February, 2021 (the "Effective Date") by and between **FOX FIRE GOLF CLUB, INC.**, an Ohio corporation ("Grantor"), and the **VILLAGE OF COMMERCIAL POINT**, an Ohio municipal corporation ("Grantee") (collectively, the "Parties").

RECITALS:

A. Grantor is the owner of certain real estate located in the Village of Commercial Point, Pickaway County, Ohio, more specifically depicted on **Exhibit A** attached hereto and incorporated herein by reference (the "Grantor Property").

B. Grantee operates the sanitary sewer and water systems for the Village of Commercial Point and collects tap fees whenever a resident or business connects to the sewer and water system in order to provide funds for the continued operation of the sanitary sewer and water systems.

C. Grantor and Grantee wish to enter into this Easement Agreement whereby Grantor grants and conveys certain easements for sewer line and water line construction and maintenance to the Grantee.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants, promises and agreements herein contained, Grantor and Grantee hereby agree as follows:

1. **Grant of Construction Easement.** As of the Effective Date, Grantor hereby grants, bargains, sells, conveys, and releases to Grantee and Grantee's successors and assigns, for the benefit of Grantee and Grantee's sewer and water system, a non-exclusive temporary construction easement over, across, and upon all portions of the Grantor Property reasonably necessary ("Construction Easement") to complete the construction and installation (and/or reconstruction or relocation as provided in Section 4 hereof) of the sanitary sewer and water lines and all related systems, including, without limitation, pipes, lines, and related improvements and facilities (collectively, the "Utility Lines Systems") together with the right of ingress and egress of vehicles and persons transporting construction materials and equipment and for the temporary storage of equipment and materials being utilized in connection with such construction.

2. **Grantee Covenants.** Grantee covenants, represents, and agrees that all work necessary to complete the construction of the Utility Lines System will be performed and completed at Grantee's sole cost and expense or at the cost and expense of a party other than Grantor in a good and workmanlike manner, free of mechanic's liens and in compliance with all applicable laws, ordinances, rules, and regulations. Upon completion of construction, Grantee shall restore the Grantor Property to substantially the condition (other than the Utility Lines Systems) it was in prior to the construction performed by or at the direction of Grantee, provided, however, that in no event shall Grantee be required to replant any trees removed in connection with Grantee's construction, installation, maintenance and repair rights and obligations under this Easement Agreement.

3. **Grant of Utility Lines Maintenance Easement.** As of the Effective Date, Grantor hereby grants, bargains, sells, conveys, and releases to Grantee, for the benefit of Grantee and Grantee's successors and assigns: (1) a permanent, non-exclusive easement upon the Grantor Property located in the area shown on **Exhibit A** as the "Utility Line Area" for purposes of locating thereon the Utility Lines Systems, (2) a permanent, non-exclusive easement for purposes of channeling, transporting, and discharging surface and storm water, effluent, and other water to, through, and from the Utility Line Systems, and (3) a permanent, non-exclusive ingress and egress easement upon and across the Grantor Property in order to provide access to the Utility Lines System for purposes of performing all necessary monitoring, maintenance, repairs, and replacements to said Utility Line Systems (collective, the "Utility Lines Easement").

4. **Right to Relocate Utility Line Systems.** Grantee shall have the right at any time, after reasonable notice to Grantor and to reconfigure, reconstruct, replace, and/or relocate the Utility Line Systems within the Utility Lines Area.

5. **Maintenance.** Grantee covenants and agrees with Grantor to maintain the Utility Lines System in good, clean, safe, and working condition in accordance with sound construction and engineering standards and practices.

6. **Reservation of Rights.** Except for the Utility Lines Area, Grantor reserves the right to use and enjoy the Grantor Property for any and all purposes, provided such use and enjoyment shall not unreasonably interfere with the easement rights and privileges granted to Grantee hereunder.

7. **No Additional Construction.** Grantor shall not construct nor shall Grantor permit any structures of any kind to be constructed within the Utility Line Area, to the extent the same will interfere with the rights of Grantee hereunder. Grantee agrees not to alter the Utility Line Systems without reasonable notice to Grantor.

8. **Term of Easements.** The Construction Easement shall be effective as of the date hereof and continue until completion of construction of the Utility Lines System and during any period of reconstruction or relocation of the Utility Lines System. The Utility Lines Easement shall commence as of the date hereof and continue for so long as such easement is necessary for the operating, monitoring, repairing, and replacing of the Utility Lines System on the Grantor Property.

9. **Notices.** All notices herein authorized or required to be given to Grantor shall be sent certified mail, registered mail, or overnight express, postage prepaid to Grantor at:

Foxfire Golf Club, Inc.
Attn: General Manager
10799 State Route 104
Lockbourne, Ohio 43137

All notices herein authorized or required to be given to Grantee shall be sent by certified mail, registered mail, or overnight express, postage prepaid, to the Grantee at:

Village of Commercial Point
Attn: Village Administrator
10 West Scioto Street
Commercial Point, Ohio 43116

With a copy to:

Joshua M. Cartee
Dinsmore & Shohl LLP
191 W. Nationwide Blvd., Suite 300
Columbus, Ohio 43215

Either Party, with consent of that Party, may accept any notice required under this Easement Agreement by other written means, such as electronic mail.

10. **Entire Agreement.** This Easement Agreement together with the Exhibits attached hereto contains the complete understanding and agreement of the Parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

11. **Successors and Assigns; Covenants Running with the Land.** The easements, rights of way, restrictions and covenants made in this Easement Agreement shall be deemed to be covenants running with the land and shall be binding upon and benefit the owner or owners of the Grantor Property, and any persons or entities who may from time to time own any portion thereof, and the successors and assigns of Grantee. Consequently, all references to Grantor shall be construed to refer to the then owner(s) of the Grantor Property.

12. **No Dedication.** The Parties intend that this Easement Agreement be strictly limited to the uses and purposes expressed and nothing contained herein shall, or be deemed to, constitute a gift or dedication of all or any portion of the Grantor Property to the general public or for any public purpose whatsoever. However, this Paragraph is subject to modification by future, written agreement of the Parties.

13. **Village Council Approval.** The Parties agree that this Easement Agreement shall not take effect until the Council of the Village of Commercial Point provides its approval, or approves of the Parties entering into an Agreement in substantially the same form and on substantially the same terms as this Easement Agreement.

14. **Authority to Enter Agreement.** The Parties whose signatures appear on this Easement Agreement hereby represent that they have the authority to enter into this Easement Agreement on behalf of the entities for whom they are signing.

15. **Governing Law.** This Easement Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio.

16. **Severability.** If any term or provision of this Easement Agreement or the application thereof to any person or circumstance should to any extent be invalid or unenforceable, the remainder of the Easement Agreement and the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable will not be affected thereby, and each term and provision of this Easement Agreement will be valid and enforceable to the fullest extent permitted by law.

17. **Indemnity.** Grantor agrees to indemnify, defend and hold Grantee, and its respective agents, employees, officers, successors and assigns, harmless from any and all loss, cost, expense, damages or injuries to persons or property (including reasonable attorneys' fees), and any other liabilities of any kind or nature arising out of or in any way related to the Grantor Property, except only to the extent caused by the gross negligence or willful misconduct of Grantee.

18. **Remedies; Enforcement.** In addition to the remedies expressly set forth in this Easement Agreement, each of Grantor and Grantee shall be entitled to all remedies available in law or in equity and any court enforcing the rights and duties granted in this Easement Agreement shall have the power (insofar as that power may be granted by contract) to issue restraining orders or injunctions necessary to enforce the provisions of this Easement Agreement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any covenant herein, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief. In the event Grantor or Grantee should bring suit to enforce its rights hereunder, the prevailing party will be entitled to recover its costs, including reasonable attorneys' fees (in all trial, appellate, bankruptcy and post-judgment proceedings) from the non-prevailing party.

19. **Exhibits.** The following exhibits are hereby incorporated into this Easement Agreement by this reference:

<u>Exhibit A</u>	Legal Description and Map of Grantor Property and General Area of Utility Lines Easement
-------------------------	--

20. **Counterparts.** This Easement Agreement may be executed by the Parties hereto in multiple counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Grantor and Grantee have executed and delivered this Easement Agreement as of the day and year first above written:

GRANTOR:

FOXFIRE GOLF CLUB, INC.,
an Ohio corporation

By: _____

Title: _____

STATE OF OHIO)
) SS
COUNTY OF PICKAWAY)

Before me, a Notary Public, in and for said County and State, personally appeared the above-named **FOXFIRE GOLF CLUB, INC.**, an Ohio corporation, by Thomas Kidder, its General Manager, who acknowledged that he did sign the foregoing instrument on behalf of said corporation, and that the same is his free act and deed and the free act and deed of said corporation.

Wendy L. Hastings
NOTARY PUBLIC

September 23, 2025
Commission Expiration Date



WENDY L. HASTINGS
Notary Public, State of Ohio
My Commission Expires:
September 23, 2025

GRANTEE:

VILLAGE OF COMMERCIAL POINT,
an Ohio municipal corporation

By: _____

Title: _____

STATE OF OHIO)
) SS
COUNTY OF PICKAWAY)

Before me, a Notary Public, in and for said County and State, personally appeared the above-named **VILLAGE OF COMMERCIAL POINT**, an Ohio municipal corporation, by D. Ross Crego, its Administrator, who acknowledged that he did sign the foregoing instrument on behalf of said corporation, and that the same is his free act and deed and the free act and deed of said corporation.

Wendy L. Hastings
NOTARY PUBLIC

September 23, 2025
Commission Expiration Date



WENDY L. HASTINGS
Notary Public, State of Ohio
My Commission Expires:
September 23, 2025

APPROVED AS TO FORM:

Joshua Cartee

Joshua Cartee
Solicitor, Village of Commercial Point

EXHIBIT A

DESCRIPTION OF A UTILITY EASEMENT EASEMENT "A" FOXFIRE GOLF CLUB VILLAGE OF COMMERCIAL POINT, OHIO

Situated in the State of Ohio, County of Pickaway, Village of Commercial Point, being a strip of land located within that 113.972-acre tract as described in a deed to Foxfire Golf Club, Inc., of record in Official Record 776, Page 685, Recorder's Office, Pickaway County, Ohio, and being more particularly described as follows:

Beginning at a northwesterly corner of said 113.972-acre tract, the northeasterly corner of that original 6.76-acre tract as described in a deed to Betty L. Drake, of record in Official Record 701, Page 2468, and in the northerly corporation line of the Village of Commercial Point;

Thence North $84^{\circ}14'15''$ East, along a northerly line of said 113.972-acre tract, a distance of 706.65 feet to a northeasterly corner of same;

Thence South $56^{\circ}45'45''$ East, along an easterly line of said 113.972-acre tract, a distance of 20.00 feet to a point;

Thence South $84^{\circ}14'15''$ West, crossing said 113.972-acre tract, 20 feet south of and parallel to the northerly line, a distance of 70x.xx feet to a point in a westerly line of same, the easterly line of the aforementioned 6.76-acre tract;

Thence North $13^{\circ}35'45''$ West, along said westerly line, a distance of 20.xx feet to the place of beginning.

EASEMENT "B"

Together with an additional strip of land 40 feet in width parallel to and coincident with the southerly line of the easement described herein above.

Bearings herein are based on the Ohio State Plane Coordinate System, South Zone NAD 83 (2011).

This description was prepared by IBI Group Survey, Columbus, Ohio and is based on the records of Pickaway County.

By

Robert S. Wynd

Registered Surveyor No. 6872

Date

2/11/21

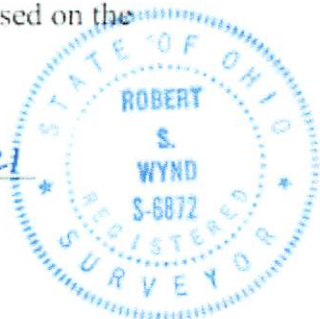


EXHIBIT A (continued)

DESCRIPTION OF A CONSTRUCTION AND MAINTENANCE ACCESS EASEMENT
EASEMENT "C"
FOXFIRE GOLF CLUB
VILLAGE OF COMMERCIAL POINT, OHIO

Situated in the State of Ohio, County of Pickaway, Village of Commercial Point, being an area of land located within that 4.164-acre tract as described in a deed to The Foxfire Golf Club Inc., of record in Official Record 78, Page 508, Recorder's Office, Pickaway County, Ohio, and being more particularly described as follows:

Beginning **FOR REFERENCE** at the southwesterly corner of said 4.164-acre tract; thence North 25°55'09" West, along the westerly line of said 4.164-acre tract, a distance of 350.41 feet to the **TRUE PLACE OF BEGINNING**;

Thence North 25°55'09" West, passing the northwesterly corner of said 4.164-acre tract and then crossing same, a distance of 52.31 feet to a point in the northerly line, the northerly corporation line of the Village of Commercial Point;

Thence along said northerly line the following courses:

1. South 88°06'21" East, a distance of 35.07 feet to an angle point;
2. South 84°17'39" East, a distance of 193.38 feet to an angle point;
3. South 86°58'51" East, a distance of 173.16 feet to an angle point;

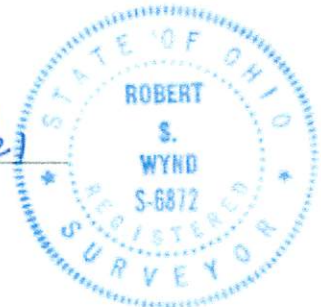
Thence South 84°14'15" West, crossing said 4.164-acre tract, a distance of 379.44 feet to the **TRUE PLACE OF BEGINNING**.

Bearings herein are based on the Ohio State Plane Coordinate System, South Zone NAD 83 (2011).

This description was prepared by IBI Group Survey, Columbus, Ohio and is based on the records of Pickaway County.

By Robert S. Wynd
Robert S. Wynd
Registered Surveyor No. 6872

2/11/21
Date



UTILITY EASEMENT
EXHIBIT
FOXFIRE GOLF CLUB
COMMERCIAL POINT, OHIO

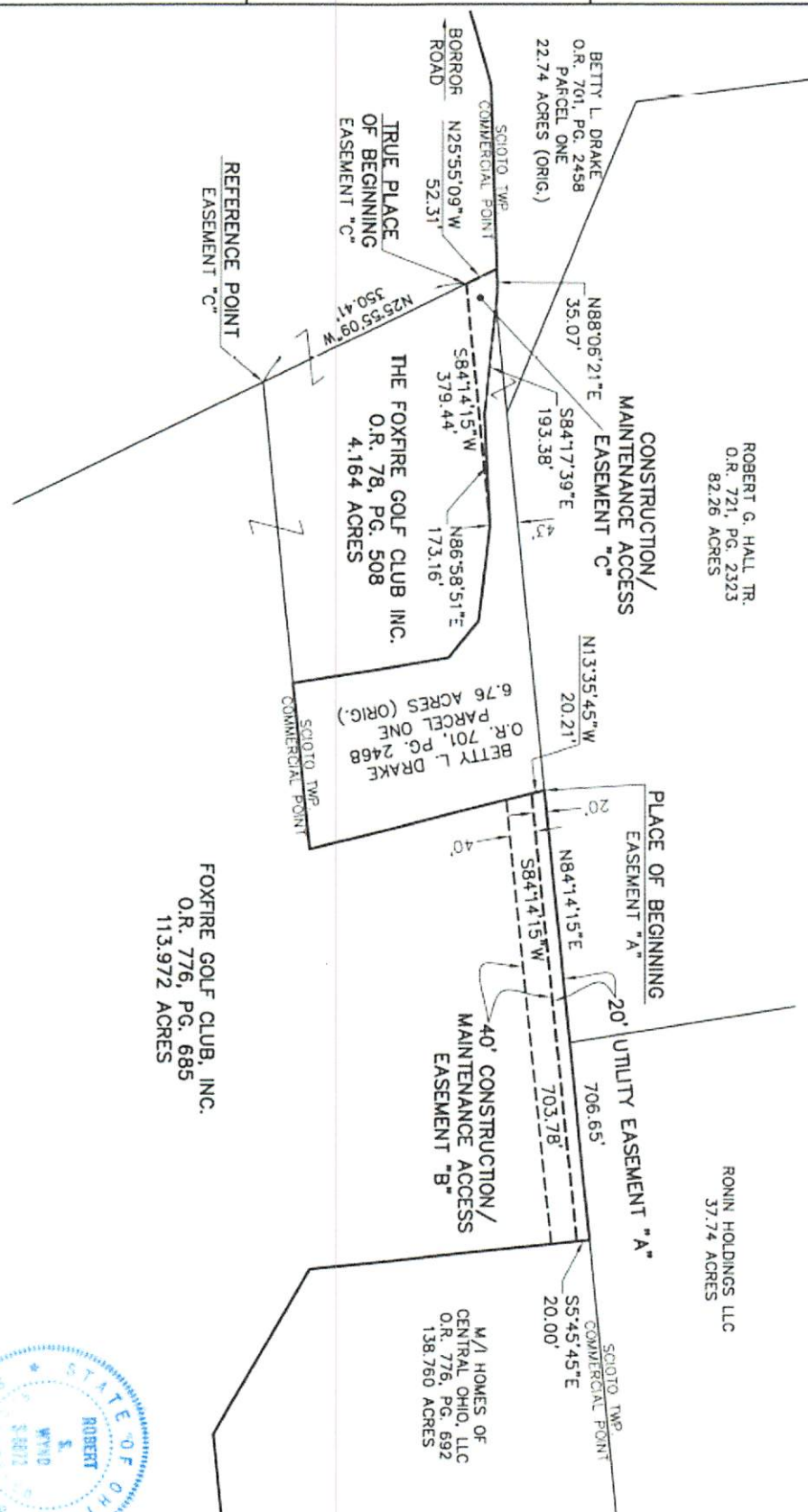


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GRAPHIC SCALE



(IN FEET)
 $\frac{1}{2}$ inch = 200 ft.



Postcard 2/11/21
P.S. # 6872

